

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric
Company (U 902 E) for a Certificate of Public
Convenience and Necessity for the Miguel –
Mission 230kV #2 Project.

Application 02-07-022
(Filed July 12, 2002)

**JOINT ASSIGNED COMMISSIONER AND ADMINISTRATIVE
LAW JUDGE'S RULING AND SCOPING MEMO**

This Scoping Memo sets forth the scope, process, and schedule for this proceeding. This Scoping Memo and Ruling follows a prehearing conference (PHC) before Administrative Law Judge (ALJ) Allen held on February 5, 2004, at which the parties discussed the schedule in this proceeding and the potential need for hearings.

1. Proceeding Issues

San Diego Gas & Electric Company (SDG&E) filed this application seeking authority to construct a 230 kV transmission line between the Miguel and Mission substations. It would do so by upgrading an existing 138/69 kV line to 230 kV capacity. The line would relieve congestion on the local transmission system and permit the importation of power from Mexico from two plants recently constructed in Mexicali by Semptra and Intergen. The project would permit the importation of 560 MW to areas north of the Miguel substation.

Decision (D.) 03-02-069 found a need for the project, set a cost cap¹ for the project and addressed project construction “milestones.” It ordered SDG&E to file the subject application, which seeks a Certificate of Public Convenience and Necessity for construction of the project. D.03-02-069 determined an economic need for the project, subject to certain conditions and assumptions about project costs and regional generation resources. The primary task in this proceeding is to resolve matters concerning environmental quality in compliance with the California Environmental Quality Act (CEQA). This ruling also addresses the “cost cap” and “milestones” adopted in D.03-02-069.

Environmental Issues. This project has required the development of an Environmental Impact Report (EIR). Commission staff has hired environmental consultants to prepare the EIR. At the February 5, 2004 PHC, the assigned ALJ advised the parties that the Commission expects this EIR to be published in April 2004. The extent to which this report will be the subject of public controversy is uncertain at this time. Prior to the initiation of work on the EIR, the Commission received 63 letters from members of the public raising issues related to electro magnetic fields, facility undergrounding, visual impacts and property values. The Commission cannot determine whether it will require evidentiary hearings on environmental issues until it has issued the EIR and comments from parties and members of the public.

Cost Cap. At the PHC, the parties briefly discussed the relevance of the cost cap in this proceeding. The Commission found a need for this project in D.03-02-069 on the basis that it would provide economic benefits rather than to

¹ D.03-02-069 adopted a cost cap of \$55.4 million for the Miguel – Mission project and the Imperial Valley Upgrade combined.

assure system reliability. D.03-02-069 declined to allocate costs to project beneficiaries, such as the owners of the Mexican generation plants, choosing instead to protect ratepayers by adopting a cost cap of \$26 million.² Although it adopted a price cap and found the project to be cost-effective, D.03-02-069 specifically found that SDG&E had not demonstrated the reasonableness of its cost estimates. It also found that the cost-effectiveness of the project would change if project costs increased or additional power were to become available in the San Diego area. Specifically, the Commission found that the project's "net benefits...could greatly diminish or disappear entirely if actual project costs are substantially higher than those projected in SDG&E's analysis, particularly if energy cost savings are adversely affected...by new generation development in San Diego North."

The tentative nature of the cost-benefit analysis applied to the project in D.03-02-069 and changes in circumstances since the issuance of D.03-02-069 suggest the uncertainty of the project's economic benefits. SDG&E estimates informally in this proceeding that the cost of building the Miguel Mission upgrade would exceed the cost cap. The record in this proceeding does not provide insight about new cost estimates or the assumptions underlying those cost estimates. Since D.03-02-069 was issued, there exists the possibility that additional capacity will be available from Otay Mesa or Palomar sites in the future. In addition, SDG&E filed A.04-03-015 on March 8, 2004, seeking authority to construct new transmission facilities it refers to as the "Uptown

² D.03-02-069 actually adopts a cost cap of \$55.4 million for two transmission projects, Miguel Mission and Imperial Valley. It effectively adopted SDG&E's preliminary cost estimates for the projects, which was about \$26 million for Miguel Mission.

Station” project. These facilities would apparently augment those that are the subject of the Miguel Mission project. The extent to which potential plant additions might affect the economic viability of Miguel Mission project is unclear. Finally, the EIR issued for the Miguel Mission project may propose modifications to the project that could increase project costs.

Project Milestones. D.03-02-069 found that Miguel – Mission project would only be economic to customers if at least 1660 MW of generation were to be developed in the California-Mexico border region. At the February 5, 2004 PHC, counsel for Border Generation stated these “milestones” have been met. Whether and the extent to which the plants are currently importing power to California is not clear by the record in this proceeding.

2. Declarations to be Filed by SDG&E

In order to assure the Miguel Mission project is a reasonable investment on behalf of California ratepayers, is environmentally sound, and conforms to the requirements of D.03-02-069, the Commission needs information that addresses the issues described above and updates the cost estimates of D.03-02-069. Some of the analysis required here cannot be conducted until after the Commission has published a draft EIR. This ruling seeks information in response to the following questions:

1. Using the model applied to the cost-benefit analysis relied upon in D.03-02-069, what are the cost savings associated with the Miguel Mission project assuming (a) updated cost estimates for the project as proposed in this application and (b) the addition of capacity in the San Diego area at 550 MW and 1100 MW? Identify all changes in assumptions or specifications to the model since it was applied in D.03-02-069.
2. Using the model applied to the cost-benefit analysis relied upon in D.03-02-069, what are the cost savings associated with the

Miguel Mission project assuming (a) updated cost estimates for the project as proposed in this application plus the costs of the additional facilities proposed in A.04-03-015 and (b) the addition of capacity in the San Diego area at 550 MW and 1,100 MW? Identify all changes in assumptions or specifications to the model since it was applied in D.03-02-069.

3. Explain how the Uptown Project, proposed in A.04-03-015 might affect the congestion problems in the region assuming the Miguel – Mission Project is constructed.
4. Are the Sempra and Intergen plants currently operating at full capacity? If not, at what levels are they producing power? How much of that power is being transported to California on existing transmission lines? How, if at all, would their operation be affected in the event the MM project was not constructed?
5. In general terms, describe how the project's construction schedule might affect or be affected by biological habitat and the cost of mitigating associated impacts.
6. Explain how, if at all, the milestones adopted in D.03-02-069 have been met.
7. Describe how each of the alternatives described in the draft EIR affect the cost of the project. Express these separate estimates for each identified alternative in terms of additional dollars.

This ruling directs SDG&E to respond to the above questions and invites responses from any other party. All responses must be in the form of a declaration and subject to penalty for perjury. If any party objects to the content of SDG&E's declarations or other parties, or believes related facts are in dispute, the Commission will consider whether to hold hearings on related matters. This ruling provides dates for the filing of the declarations and responses to them.

3. Data Request for the California Independent System Operator (ISO)

This ruling seeks information from the ISO in the form of a declaration describing the financial effect of managing the intra-zonal congestion, including Reliability Must-Run costs that would be relieved by the Miguel – Mission project. Its declaration should include a table that describes these effects to ratepayers of Southern California Edison, SDG&E, and Pacific Gas and Electric Company for each month between July 2002 and February 2004 in dollars. It should also estimate these costs for the first five years following construction of the facilities, assuming a June 2006 completion date. The response should explain how changes in congestion management, referred to in a letter to the Commission dated February 20, 2004 from Jim Detmers, might affect congestion costs during the period following construction of the Miguel Mission line, assuming a completion date of June 2006.³ If this analysis or the financial impacts differ from those presented in I.00-11-001, and referred to in D.03-02-069, the ISO should explain the differences. This information should be filed and served on all parties by April 5, 2004.

³ The letter states “The ISO is proposing changes to its current congestion management system to address some of the impacts of the increased congestion. In addition, the independent consultant selected by the Federal Energy Regulatory Commission to calculate bids during periods of intra-zonal congestion has recently modified its methodology, which may lead to lower intra-congestion costs.”

4. Procedural Schedule

The procedural schedule in this proceeding at this time is as follows:

Filing of Declarations by SDG&E and other parties addressing questions in this ruling, except Question 7.	April 5, 2004
Filing of Declarations by SDG&E and other parties addressing Question 7 in this ruling.	No later than 20 calendar days following publication of the draft EIR.
Replies to SDG&E and parties' declarations addressing questions in this ruling except Question 7.	April 20, 2004
Replies to SDG&E and parties' declarations addressing Question 7.	No later than 35 calendar days following publication of the draft EIR.
Filing by ISO of declaration regarding the impacts of Miguel Mission.	April 5, 2004
Draft EIR published (as estimated by Energy Division Staff)	April 2, 2004
Comments due on Draft EIR	45 days following publication
CEQA Meetings and Public Participation Hearings	May 10 and May 11, 2004, at locations to be announced
Proposed Decision	June 2004, if no hearings required

5. Category of Proceeding

The Commission preliminarily determined that this is a ratesetting proceeding for which hearings may be required. The Commission invited objections to its initial categorization. No party has expressed any objection.

This ruling confirms that the proceeding is ratesetting. The Commission does not plan to conduct evidentiary hearings at this time but may revisit this procedural matter following publication of the EIR for the project, declarations filed by SDG&E and other parties pursuant to this ruling, and comments by the public.

6. Principal Hearing Officer

ALJ Kim Malcolm is the principal hearing officer in this proceeding. This proceeding was reassigned from ALJ Peter Allen to ALJ Malcolm on February 9, 2004.

7. Service List

The service list for this proceeding is located at the Commission's Website (www.cpuc.ca.gov). Those who are not already parties, but who wish to participate in this proceeding as full parties must make their request by written motion to intervene, or orally on the record during the proceeding. Those not already participating, but who wish to do so as nonparties, may request that their names be added to the service list (in the "information only" or "state service" category) by sending an e-mail note to ALJ Malcolm (kim@cpuc.ca.gov).

The Commission will follow the electronic service protocols attached to this ruling.

8. Rules Governing Ex Parte Communications

This proceeding is subject to Pub. Util. Code § 1701.3(c), which means that ex parte communications are prohibited unless certain statutory requirements are met (see also, Rule 7(c)). An ex parte communication is defined as "any oral or written communication between a decisionmaker and a person with an interest in a matter before the Commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other

public proceeding, or on the official record of the proceeding on the matter.” (Pub. Util. Code § 1701.1(c)(4)). Commission rules further define the terms “decision maker” and “interested person” and only off-the-record communications between these two entities are “ex parte communications.”

The law permits Commissioners to engage in ex parte communications with decision makers if all interested parties are invited and given no less than three business days’ notice, or in the case of an individual meeting granted to any party, if all other parties are also granted individual ex parte meetings of a substantially equal period of time (Pub. Util. Code § 1701.3(c)). The law permits written ex parte communications provided that those who provide such communication to a decision maker must provide a copy the communication to each party on the same day. (Pub. Util. Code § 1701.3(c); Rule 7.) Parties must report ex parte communications as specified in Rule 7.1.

IT IS RULED that:

1. The scope of this proceeding is set forth in this ruling.
2. The schedule for this proceeding is set forth in this ruling. The assigned Administrative Law Judge (ALJ) may revise this schedule as necessary for the fair and efficient management of the proceeding.
3. This proceeding is categorized as ratesetting and evidentiary hearings may be necessary. This ruling on category may be appealed, as provided in Rule 6.4 of the Commission’s Rules of Practice and Procedure.
4. ALJ Kim Malcolm is the principal hearing officer in this proceeding.
5. This ratesetting proceeding is subject to Pub. Util. Code § 1701.3(c), meaning that ex parte communications are prohibited unless certain statutory requirements are met. Such communications are also governed by Rule 7(c), and must be reported, as provided in Rule 7.1.

6. Public participation hearings and public meetings on the Proposed Environmental Impact Report will be conducted in the San Diego area on May 10 and May 11, 2004, at locations to be announced in a subsequent notice.

7. San Diego Gas & Electric Company shall file declarations on project milestones and forecasted project costs and responses to questions posed herein no later than April 5, as set forth herein.

Dated March 24, 2004, at San Francisco, California.

/s/ LORETTA LYNCH

Loretta Lynch
Assigned Commissioner

/s/ KIM MALCOLM

Kim Malcolm
Administrative Law Judge

ATTACHMENT A

SERVICE LIST AND ELECTRONIC SERVICE PROTOCOLS

The service list for this proceeding is located at the Commission's website (www.cpuc.ca.gov). Those who are not already parties, but who wish to participate in this proceeding as full parties may make a written motion to intervene or submit an appearance form at a hearing. Those who wish to be included as parties on the service list may alternatively send their requests in an e-mail note to ALJ Malcolm (kim@cpuc.ca.gov).

To reduce the burden of service in this proceeding, the Commission will use electronic service, to the extent possible using the electronic service protocols provided in this ruling.

All individuals on the service list should provide electronic mail addresses. The Commission and other parties will assume a party consents to electronic service unless the party indicates otherwise.

Notice of Availability

If a document, including attachments, exceeds 75 pages, parties may serve a Notice of Availability in lieu of all or part of the document, in accordance with Rule 2.3(c) of the Commission's Rules of Practice and Procedure.

Filing of Documents

These electronic service protocols govern service of documents only, and do not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rule 2, et seq., of the Commission's Rules of Practice and Procedure.

Electronic Service Standards

As an aid to review of documents served electronically, appearances should follow these procedures:

1. Merge into a single electronic file the entire document to be served (e.g., title page, table of contents, text, attachments, service list).
2. Attach the document file to an electronic note.
3. In the subject line of the note, identify the proceeding number; the party sending the document; and the abbreviated title of the document.
4. Within the body of the note, identify the word processing program used to create the document if anything other than Microsoft Word. (Commission experience is that most recipients can readily open documents sent in Microsoft Word 6.0/95.)

If the electronic mail is returned to the sender, or the recipient informs the sender of an inability to open the document, the sender shall immediately arrange for alternative service (regular U.S. mail shall be the default, unless another means—such as overnight delivery—is mutually agreed upon).

Parties should exercise good judgment regarding electronic mail service, and moderate the burden of paper management for recipients. For example, if a particularly complex matrix or cost-effectiveness study with complex tables is an attachment within a document mailed electronically, and it can be reasonably foreseen that most parties will have difficulty printing the matrix or tables, the sender should also serve paper copies by U.S. mail, and indicate that in the electronic note.

Obtaining Up-to-Date Electronic Mail Addresses

The current service lists for active proceedings are available on the Commission's web page, www.cpuc.ca.gov. To obtain an up-to-date service list of electronic mail addresses:

- On the "Legal Documents" bar choose "Service Lists."
- Scroll through the "Index of Service Lists" to the number for this proceeding (or click "edit," "find," type in R0010002, and click "find next").
- To view and copy the electronic addresses for a service list, download the comma-delimited file, and copy the column containing the electronic addresses.

The Commission's Process Office periodically updates service lists to correct errors or to make changes at the request of parties and non-parties on the list. Parties should copy the current service list from the web page (or obtain paper copy from the Process Office) before serving a document.

Pagination Discrepancies in Documents Served Electronically

Differences among word-processing software can cause pagination differences between documents served electronically and print outs of the original. (If documents are served electronically in PDF format, these differences do not occur, although PDF files can be especially difficult to print out.) For the purposes of reference and/or citation (e.g., at the Final Oral Argument, if held), parties should use the pagination found in the original document.

(END OF ATTACHMENT A)

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Joint Assigned Commissioner and Administrative Law Judge's Ruling and Scoping Memo on all parties of record in this proceeding or their attorneys of record.

Dated March 24, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TTY# 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.